**THE HON'BLE SRI JUSTICE C.V.RAMULU**

W.P.No.9481 of 1996

Dated:21.11.2006

Between

Priya Delux Theatre, Tenali

Rep., by its Managing Partner

G.Viswanatham

.....Petitioner

and

1.The Assistant Commissioner of Labour-I,

District Labour Officer, Guntur and others.

…Respondents

**THE HON'BLE SRI JUSTICE C.V.RAMULU**

W.P.No.9481 of 1996

ORDER:

This writ petition is filed challenging the order made in the Minimum Wages Case No.3 of 1995 in File No. B/MV/94 on the file of the Authority under Minimum Wages Act, 1948 and Assistant Commissioner of Labour, I Circle, Guntur.

The petitioner is the opponent (employer). The 2nd respondent-Assistant Labour Officer, filed an application stating that the opponent has denied the minimum wages to its workers. It seems that the 2nd respondent had inspected the establishment of the petitioner-opponent on 16.7.1993 at 12 noon and found that the Minimum Wages were not being

paid. The petitioner-opponent has to pay minimum wages as per G.O.Ms.No.31 dated 6.3.1991 with effect from 22.4.1991. The 2nd respondent had estimated the value of relief sought for by the employee at Rs.5120.90 and prayed for a direction under Section 20 (3) of the Minimum Wages Act for payment of minimum wages and compensation as deemed fit.

The petitioner filed counter stating that most of the averments in the petition are misleading and the petition is not maintainable in law. According to the petitioner, he paid the CDA after inspection of the Labour Officer. The same is intimated to the concerned officer. As the CDA was paid, the petition may be closed.

On behalf of the 2nd respondent-appellant Aws.1 and 2 were examined and Exs.A1 to A3 were marked. On behalf of the petitioner-opponent BWs.1 and 2 were examined and Ex. B1 was marked.

After a detailed consideration of both oral and documentary evidence, the Authority came to the conclusion that petitioner-opponent had not paid the minimum wages as required under law. Therefore, directed the petitioner-opponent to pay an amount of Rs.5120-90 as claim amount and one time of claim amount as compensation ie., 5120-90 totalling to Rs.10,241-80. Aggrieved by the same, the present writ petition is filed.

Learned counsel for the petitioner Sri. Ganta Rama Rao strenuously contended that the authority has not properly verified the records and not properly appreciated the evidence. Therefore, it came to an erroneous conclusion that the petitioner has not paid the minimum wages. *In fact*, the petitioner paid CDA, therefore, the order passed by the authority is arbitrary and illegal.

Per contra, the learned counsel for the respondents supported the order passed by the authority and stated that

the authority has not committed any error calling for interference of this Court under Article 226 of the Constitution of India.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and perused the impugned order and other material made available on record.

After examining the material placed before the authority, it has noticed as under:

> " On intensive observation of the material on record and evidence of both parties witnesses, I am of the opinion that it is clearly shows that there is no *mala fide* intention to the V.Srinivasarao, employee of the OP estt., because he did not know about the arrears amount of the CDA and neither he lodged any complaint to the Asst. Labour Officer, Tenali nor depended the OP for payment of arrears of CDA amount. On verification of the Ex.A3 submitted by the DP as reply to the claim notice issued by the applicant, then only the applicant found that one employer i.e., V.Srinivasa Rao was not paid the claim amount by the OP. If the plea of the OP that V.Srinivasa Rao refused the demand draft subsequently the OP cancelled the DD and paid by cash is correct the OP might have been informed that first at the time of submission of Ex.A3 to the Asst. Labour Officer i.e., applicant. Further BW1 deposed that he paid the claim amount to V.Srinivasa rao by cash before the BW.II on 22.8.93 and the same has informed to the Asst. Labour Officer's Office through letter along with copy of acquittance by BWII i.e., S.Prabhakara Sastry, office boy of the OP establishment. The BW.II i.e., deposed as witness of the OP that he informed orally and not submitted any acquittance copy in the Asst. Labour Officer-II/Tenali Office. Moreover at that time when BW.II visited the o/o Asst. Labour Officer, the Asst. Labour Officer was not in the office. So here I found that there is a contradictory statement between the two witnesses of the OP and the applicant also denied the suggestion that the OP submitted the copy of the acquittance for the claim

amount paid to the V.Srinivasa Rao his cross examination by the counsel of OP. Further, the OP has not filed any documentary or recorded proof to show that he had submitted the acquittance copy to the applicant. By taking into consideration all the above arrived opinion I have believed that Sri V.Srinivasa Rao, employee of the OP Estt was not paid the claim amount by the OP."

From the above, the Authority has found that there was inconsistency between the statements of the two witnesses of the opponent and further the 2nd respondent also denied the suggestion that the opponent submitted copy of the acquittance for the claim amount paid to V.Srinivasa Rao in his cross examination by the counsel of the opponent. The opponent has neither filed any documentary proof nor submitted the acquittance copy to the applicant at the time of inspection.

In view of the above and in the absence of any proof produced by the petitioner-opponent, the authority has rightly taken a decision and awarded minimum wages and one time of claim amount as compensation. Writ petition is devoid of merits and is liable to be dismissed.

Writ petition is accordingly dismissed. However, the petitioner is granted eight weeks time from the date of receipt of a copy of this order to comply with the order passed by the authority under the Minimum Wages Act.

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21-11-2006

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